

Annex B – LAWFUL BASES FOR PROCESSING PERSONAL DATA

Practices and businesses will need to have **at least one** lawful basis for processing personal data. This means having a legal basis for each processing activity.

Legal basis for processing personal data	Notes
1. Consent of the data subject	Should NOT be used as the lawful basis for health records or employee records. Most likely to be the lawful basis when data is processed for marketing purposes. Please note that there are other regulations to consider when using personal data for marketing. For more details on marketing please also see the ICO guidance on direct marketing . Also note that the EU is giving consideration to reforming the existing e-Privacy Directive, with the aim of harmonising it with the GDPR.
2. Processing is necessary for the performance of a contract with the data subject or to take steps to enter into a contract	Employment contracts and data held on employees that is consistent with the contract of employment.
3. Processing is necessary for compliance with a legal obligation	Might be used by a practice, for example to comply with tax law.
4. Processing is necessary to protect the vital interests of a data subject or another person	Less likely that practices will rely on this condition.
5. Processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller	Less likely that practices will rely on this condition.
6. Necessary for the purposes of legitimate interests pursued by the controller or a third party, except where such interests are overridden by the interests, rights or freedoms of the data subject (Note that this condition is not available to processing carried out by public authorities in the performance of their tasks).	Likely to be the lawful basis for most personal data held by practices (please note that health records cannot be processed solely on this lawful basis as they are also a special category of data – see below)
<p>There are additional requirements for anybody processing the following special categories of data: personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, and the processing of genetic data, biometric data for the purpose of uniquely identifying a natural person, data concerning health or data concerning a natural person's sex life or sexual orientation shall be prohibited, unless this is done as part of any of the following provisions:</p>	
7. Explicit consent of the data subject, unless reliance on consent is prohibited by EU or Member State law	Less likely that practices will rely on this condition.
8. Processing is necessary for carrying out obligations under employment, social security or social protection law, or a collective agreement	Practices might rely on this condition.